

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MICHAEL MCCARTHY, et al.,)
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)
 Plaintiffs,) No. 1:20-cv-10701-DPW
)
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-against-)
)
CHARLES D. BAKER, in his Official Capacity as)
Governor of the Commonwealth of Massachusetts,)
)
 Defendants.)
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)

**MOTION OF PINK PISTOLS FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN
SUPPORT OF PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Pursuant to Local Rule 7.1, Pink Pistols moves for leave to file an amicus curiae brief in support of Plaintiffs' motion for a temporary restraining order and preliminary injunction. The proposed brief is attached as an exhibit to this motion. We have consulted counsel for Plaintiffs and counsel for Defendants Baker, Bharel, and Gagnon ("State Defendants") regarding this motion. Plaintiffs consent, while State Defendants do not. The reasons for this motion are as follows.

The lawsuit challenges an order by the Governor of Massachusetts deeming firearm and ammunition retailers to be "non-essential" businesses that must shut down during the COVID-19 emergency. By shutting down firearm and ammunition retailers, the Governor's order cuts off access to firearms and ammunition by law-abiding citizens of Massachusetts during this critical time. This infringement of Second Amendment rights is particularly harmful to Pink Pistols and its members.

Founded in Boston, Massachusetts in 2000, Pink Pistols is a shooting society that honors gender and sexual diversity and advocates the responsible use of firearms for self-defense. It represents members of the Lesbian, Gay, Bisexual or Transgender community (“LGBT”), who are disproportionately the victims of hate crimes and other types of violence. Its creed is that, “without self-defense, there are no gay rights.” Although it is the largest LGBT self-defense organization in the world, with thousands of members and chapters throughout the United States (including a chapter in Massachusetts) and Canada, Pink Pistols is open to all without regard to gender identity or sexual orientation. Governor Baker’s order closing gun stores throughout Massachusetts is an affront to Pink Pistols’ mission and is particularly harmful to sexual minorities and members of other groups who are disproportionately likely to be subject to criminal violence.

“[T]he acceptance of amicus briefs is within the sound discretion of the court,” *Trustees of Bos. Univ. v. Vyrian, Inc.*, No. CV 13-11963-PBS, 2013 WL 12129604, at *4 (D. Mass. Oct. 29, 2013) (internal quotation marks omitted), and Pink Pistols respectfully submits that its expertise and perspective will be useful to the Court in deciding the important issues presented by this case. Pink Pistols has extensive experience litigating Second Amendment issues. Indeed, the lead opinion in the seminal case of *McDonald v. City of Chicago* cited Pink Pistols’ amicus brief to support the Court’s decision to apply the Second Amendment to the States. See 561 U.S. 742, 790 n.33 (2010) (plurality). Pink Pistols was a plaintiff in a case establishing the right of typical law-abiding citizens to carry firearms in the District of Columbia. See *Wrenn v. District of Columbia*, 864 F.3d 650, 656 (D.C. Cir. 2017). And Pink Pistols has filed amicus briefs in support of Second Amendment rights in numerous other important Second Amendment cases. See, e.g., *Rupp v. Becerra*, 2020 WL 835436 (9th Cir. Feb. 3, 2020); *New York State Rifle & Pistol Ass’n v. City of New York*, 2019 WL 2121721 (U.S. May 13, 2019); *Kolbe v. Hogan*, 2017 WL 3701801 (U.S.

Aug. 23, 2017); *Peruta v. County of San Diego*, 2015 WL 1955162 (9th Cir. April 29, 2015); *Jackson v. City & County of San Francisco*, 2015 WL 164859 (9th Cir. Jan. 12, 2015); *Heller v. District of Columbia*, 2014 WL 4441601 (D.C. Cir. Sept. 9, 2014); *Shew v. Malloy*, 2014 WL 2294681 (2d Cir. May 23, 2014); *Nojay v. Cuomo*, 2014 WL 2154994 (2d Cir. May 14, 2014).

For these reasons, Pink Pistols requests that its motion for leave to file the attached amicus brief be granted.

Dated: April 17, 2020

Respectfully submitted,

David H. Thompson*
Peter A. Patterson*
COOPER & KIRK, PLLC
1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 220-9600
(202) 220-9601 (fax)
dthompson@cooperkirk.com

s/Patrick Groulx
Patrick Groulx
BBO # 673394
ISENBERG GROULX, LLC
368 W. Broadway, Suite 2
Boston, MA 02127
(857) 880-7889
patrick@i-gllc.com

**Pro hac vice* application forthcoming

Attorneys for Pink Pistols

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on April 17, 2020.

/s/ Patrick Groulx
Patrick Groulx